



PATENT
Customer No. 22,852
Attorney Docket No. 05725.1009-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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| In re Application of: |) | |
| |) | |
| Gilles RUBINSTENN et al. |) | Group Art Unit: 3628 |
| |) | |
| Application No.: 10/024,351 |) | Examiner: Borissov, Igor N. |
| |) | |
| Filed: December 21, 2001 |) | |
| |) | |
| For: CUSTOMIZED BEAUTY |) | Confirmation No.: 4841 |
| TRACKING KIT |) | |

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF UNDER BOARD RULE § 41.37

Further to the Notice of Appeal filed November 25, 2008, and pursuant to 37 C.F.R. § 41.37, Appellants submit this Appeal Brief and enclose herewith a payment of \$40.00 to cover the difference between the current appeal brief fee of \$540.00 and the appeal brief fee of \$500.00 previously paid on July 22, 2005. The period for filing this brief has been extended to February 25, 2009, by the accompanying Petition of Extension of Time of one (1) month and appropriate fee payment.

The appeal is from the final Office Action mailed August 25, 2008 ("final Office Action"), finally rejecting claims 1-24, which are set forth in attached Appendix A.

If any additional fees are required or if the enclosed payment is insufficient, Appellants request that the required fees be charged to Deposit Account No. 06-0916.

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I. Real Party In Interest

The real party in interest is L'Oréal S.A., the assignee of the entire right, title, and interest in the application.

II. Related Appeals and Interferences

There are currently no other appeals or interferences, of which Appellants, Appellants' legal representative, or Assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 1-24 are pending in this application, and claims 25-30 were previously canceled. Claims 1-24, as set forth in Appendix A, have been finally rejected in the final Office Action. The rejections applied to claims 1-24 are at issue in this appeal.

IV. Status Of Amendments

No amendments under 37 C.F.R. § 1.116 have been filed subsequent to or in response to the final Office Action.

V. Summary Of Claimed Subject Matter

A. Independent Claim 1

Independent claim 1 recites a beauty diagnostic method. The recited method involves storing personal questions on at least one topic including characteristics of at least one external body condition (e.g., Fig. 2: 202, 204, 206), the personal questions being stored on a computer-readable storage medium (e.g., Figs 9A, 9B: 914, 920); selecting a set of personal questions from the personal questions stored on the computer-readable storage medium; and asking a subject (e.g., Figs. 9A, 9B: 904) the set of personal questions. The method also involves receiving answers to the set of personal questions (e.g., Fig. 2: 208, 210, 212) and, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material (e.g., Fig. 6: 602, 604, 606; Fig. 8: 800) for determining quantitative information that would aid in recommending at least one beauty product to the subject. The recited method further involves informing the subject about the at least one customized set of testing material. See, e.g., Appellants' specification at: page 4, lines 4-11; page 5, lines 3-10 and 16-19; page 7, lines 8-15; page 8, lines 3-15; page 21, lines 12-18; page 23, line 1 - page 24, line 6; page 29, lines 1-12; page 31, line 19 - page 33, line 10; page 41, line 14 - page 42, line 11; page 45, line 9 - page 46, line 11; Fig. 6; and Fig. 7: 702, 704, 706, 708.

B. Independent Claim 11

Independent claim 11 recites a beauty diagnostic system including the following:

a computer-readable storage medium for storing personal questions on at least one topic including characteristics of at least one external body condition (see, e.g., Figs. 9A, 9B: 914, 920; and page 8, lines 3-15);

means for selecting a set of personal questions from the personal questions stored on the computer-readable storage medium (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 21, line 12 - page 22, line 9; page 23, line 1 - page 24, line 6; page 29, lines 1-15; and Fig. 2: 220; and Figs. 9A, 9B: 906, 908, 910, 920);

means for asking a subject the set of personal questions (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 9, line 16 - page 12, line 2; page 24, lines 7-17; page 29, lines 16-21; page 31, line 19 - page 32, line 5; page 34, lines 3-12; page 35, lines 6-12; Fig. 2: 200, 202, 204, 206, 220; Figs. 9A, 9B: 906, 908, 910, 920);

means for receiving answers to the set of personal questions (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 9, line 16 - page 12, line 2; page 24, line 18 - page 25, line 6; page 29, lines 16-21; page 32, lines 1-5; page 35, lines 6-12; Fig. 2: 208, 210, 212, 220; Figs. 9A, 9B: 906, 908, 910, 920);

means for, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material for determining quantitative information that would aid in recommending at least one beauty product to the subject

(which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 26, line 15 - page 27, line 12; page 27, line 22 - page 28, line 11; page 32, lines 6-11; page 32, line 17 - page 33, line 10; Fig. 2: 220; Fig. 6: 602, 604, 606; Fig. 8: 800; and Figs. 9A, 9B: 906, 908, 910, 920); and

means for informing the subject about the at least one customized set of testing material (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 32, lines 12-16; page 34, line 3 - page 35, line 12; Fig. 2: items 200, 220; Figs. 9A, 9B: 906, 908, 910, 920).

C. Dependent Claim 17

Dependent claim 11 recites means for maintaining an inventory of a plurality of differing groups of customized sets of testing material, each group containing a combination of testing material different from a combination in another group (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 27, line 22 - page 28, line 11; page 32, line 17 - page 33, line 10; Fig. 2: 220; Fig. 6: 600, 602, 604, 606; and Figs. 9A, 9B: 906, 908, 910, 920), wherein the means for providing the subject with at least one customized set of testing material includes means for selecting an appropriate group of sets maintained in inventory (which is a means-plus-function element having structure, material, or acts disclosed in the present application at, e.g., page 27, line 22 - page 28, line 11; page 32, line 17 - page 33, line 10; Fig. 2: 220; Fig. 6: 600, 602, 604, 606; and Figs. 9A, 9B: 906, 908, 910, 920).

D. Independent Claim 20

Independent claim 20 recites a computer program product for performing a beauty diagnostic. The computer program product comprises computer-readable media having computer-readable code (e.g., Figs. 9A, 9B: 914, 920) and may comprise computer-readable program code for effecting actions in a computing platform. See, e.g., page 5, lines 16-19; Fig. 2: 220. The computer program product comprises program code for asking a subject (e.g., Figs. 9A, 9B: 904) personal questions (e.g., Fig. 2: 202, 204, 206) on at least one topic including characteristics of at least one external body condition of the subject. The computer program product also comprises program code for receiving answers to the personal questions (e.g., Fig. 2: 208, 210, 212) and program code for, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material (e.g., Fig. 6: 602, 604, 606; Fig. 8: 800) for determining quantitative information that would aid in recommending at least one beauty product to the subject. The computer program product additionally comprises program code for informing the subject about said at least one customized set of testing material. See, e.g., Appellants' specification at: page 4, lines 4-11; page 5, lines 3-10 and 16-19; page 7, lines 8-15; page 8, lines 3-15; page 21, lines 12-18; page 23, line 1 - page 24, line 6; page 29, lines 1-12; page 31, line 19 - page 33, line 10; page 41, line 14 - page 42, line 11; page 45, line 9 - page 46, line 11; Fig. 6; and Fig. 7: 702, 704, 706, 708.

E. Independent Claim 24

Independent claim 24 recites a beauty diagnostic method that involves storing personal questions on at least one topic including characteristics of at least one external

body condition (e.g., Fig. 2: 202, 204, 206), the personal questions being stored on a computer-readable storage medium (e.g., Figs. 9A, 9B: 914, 920); selecting a set of personal questions from the personal questions stored on the computer-readable storage medium; and asking a subject (e.g., Figs. 9A, 9B: 904) the set of personal questions. The method also involves receiving answers to the set of personal questions (e.g., Fig. 2: 208, 210, 212) and, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material (e.g., Fig. 6: 602, 604, 606; Fig. 8: 800) for determining quantitative information that would aid in recommending at least one beauty product to the subject. Independent claim 24 also recites that the subject is provided with the customized set of testing material. The method also involves ascertaining the desired quantitative information by collecting data derived from use of the testing material on the subject and, based on the received answers and the ascertained quantitative information, recommending at least one beauty product to the subject. See, e.g., Appellant's specification: page 33, line 11 - page 34, line 2; Fig. 7: 710, 712. See also, e.g., Appellants' specification at: page 4, lines 4-11; page 5, lines 3-10 and 16-19; page 7, lines 8-15; page 8, lines 3-15; page 21, lines 12-18; page 23, line 1 - page 24, line 6; page 29, lines 1-12; page 31, line 19 - page 33, line 10; page 41, line 14 - page 42, line 11; page 45, line 9 - page 46, line 11; Fig. 6; and Fig. 7: 702, 704, 706, 708.

VI. Grounds of Rejection To Be Reviewed on Appeal

The following grounds of rejection are to be reviewed:

A. Claims 1-19 and 24 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

B. Claims 1-24 stand rejected under 35 U.S.C. § 103(a) based on PCT International Publication No. WO 01/18674 A2 to Maloney et al. ("Maloney") in view of U.S. Patent Application Publication No. US 2002/0059030 to Otworth et al. ("Otworth").

VII. Argument

A. The rejection of claims 1-19 and 24 under 35 U.S.C. § 101 should be reversed because these claims define statutory subject matter

In the final Office Action at pg. 2, the Examiner alleged that claims 1-19 and 24 are purportedly “directed to non-statutory subject matter.” As explained below, Appellants submit that all of the claims satisfy 35 U.S.C. § 101 and that the § 101 rejection should be reversed.

1. Independent claim 1 is tied to a particular machine or apparatus because it recites a computer-readable storage medium, testing materials, and customized testing material(s)

Independent claim 1 recites a method that involves “a computer-readable storage medium,” “a plurality of testing materials,” and “at least one customized set of testing materials.” These recitations tie claim 1 to a particular machine or apparatus. Accordingly, claim 1 satisfies the “machine-or-transformation test” for determining whether the claim complies with 35 U.S.C. § 101, as recently established in *In re Bilski*, 545 F.3d 948, 88 USPQ2d 1385 (Fed. Cir. 2008).

For at least these reason, the Section 101 rejection of claim 1 should be reversed.

2. Claims 2 and 3 depend from claim 1 and recite providing a particular machine or apparatus

Claims 2 and 3 depend from claim 1 and, thus, should comply with 35 U.S.C. § 101 for the same reasons as those explained above for claim 1. In addition, these claims are statutory because they are further tied to a particular machine or apparatus. In particular claim 2 recites “providing . . . [a] customized set of testing material,” and

claim 3 recites "providing . . . a customized diagnostic kit containing the customized set of testing material."

For at least these reasons, the Section 101 rejection of claims 2 and 3 should be reversed.

3. Claims 3-6 depend from claim 1

Claims 3-6 depend from claim 1 and, therefore, should comply with Section 101 for at least the same reasons as claim 1.

4. Claim 7 depends from claim 2 and further recites a particular machine or apparatus

Claim 7 depends from claim 2 and, therefore, should comply with Section 101 for at least the same reasons as claim 2. In addition, this claim is statutory because it is further tied to a particular machine or apparatus. In particular, claim 7 recites a method that involves a "computer network."

For at least these reasons, the Section 101 rejection of claim 7 should be reversed.

5. Claims 8-10 depend from claim 2

Claims 8-10 depend from claim 2 and, therefore, should comply with Section 101 for at least the same reasons as claim 2.

6. Claims 11-19 are system claims, not process claims, and they recite a particular machine/apparatus

The final Office Action fails to set forth a *prima facie* case of unpatentability of claim 11 under 35 U.S.C. § 101. The final Office Action at pgs. 3-4 merely alleges that "claim [11] recites only a computer-readable medium and *means* for enabling the recited

functionalities which (means) could be understood as merely software or code per se” (emphasis in original), and that “it appears that the claim is directed to two statutory classes - an apparatus and product of manufacture.”

Contrary to these allegations and the allegations in the final Office Action at p. 2, which appear to contend that claim 11 is purportedly directed to a process including a “series of steps,” claim 11 recites a “system.” The final Office Action lacks any meaningful explanation for refusing to acknowledge that the system recited in claim 11 is statutory. Moreover, even hypothetically if claim 11 were to be considered a process, claim 11 recites subject matter tied to a particular machine or apparatus. In particular, claim 11 recites a computer-readable storage medium in combination with a plurality of “means for . . .” recitations.

For at least these reasons, the Section 101 rejection of claim 11 should be reversed.

Claims 12-19 depend from claim 11 and, therefore, should comply with Section 101 for at least the same reasons as claim 11.

7. Claim 24 is tied to a particular machine or apparatus because it recites a computer-readable storage medium, testing materials, customized testing material(s), and beauty product(s)

Independent claim 24 recites a method that involves “a computer-readable storage medium,” “a plurality of testing materials,” “at least one customized set of testing materials,” and “at least one beauty product.” These recitations tie claim 24 to a particular machine or apparatus. Accordingly, claim 24 satisfies the “machine-or-transformation test” of *In re Bilski*, 545 F.3d 948.

For at least these reasons, the Section 101 rejection of claim 24 should be reversed.

B. The rejection of claims 1-24 under 35 U.S.C. § 103(a) based on Maloney in view of Otworth should be reversed because the final Office Action does not set forth a *prima facie* case of obviousness

As explained below, the rejection of claims 1-24 under 35 U.S.C. § 103(a) based on Maloney in view of Otworth should be reversed because the final Office Action does not set forth a *prima facie* case of obviousness.

1. Independent claim 1

Regardless of whether Maloney and Otworth are considered alone or in combination, neither reference discloses or suggests a method that involves, among other features, “selecting a set of personal questions from . . . personal questions stored on [a] computer-readable storage medium” and “based on . . . received answers [to the set of personal questions], selecting from a plurality of testing materials, at least one customized set of testing material”

Contrary to the assertions in the final Office Action at pg. 5, lines 1-3, Maloney at pg. 8, line 35 - pg. 9, line 5; pg. 6, lines 30-34; and pg. 18, lines 1-4 and 21-24, does not disclose or suggest “selecting a set of personal questions from . . . personal questions stored on [a] computer-readable storage medium,” as recited in claim 1. For example, Maloney at pg. 6, lines 30-34 and pg. 8, line 35 - pg. 9, line 5, merely describes collecting consumer profiling data without ever disclosing or suggesting a method that includes a set of personal questions being selected from personal questions stored on a computer-readable storage medium, as recited in claim 1. Although Maloney at pg. 18,

lines 1-4 and 21-24, refers to a computer-readable storage medium that includes code for instructing a computer to perform a number of steps, Maloney fails to disclose or suggest a computer-readable storage medium being used in a method that involves “selecting a set of personal questions from . . . personal questions stored on [a] computer-readable storage medium,” as recited in claim 1.

Even if Otworth were to be combined with Maloney (a notion that Appellants do not concede), such a hypothetical combination would not have provided one of ordinary skill in the art with any disclosure or suggestion of the “selecting . . .” recited in claim 1. Indeed, the final Office Action does not cite any disclosure in Otworth as having any alleged teaching of the recited “selecting . . .,” and no such disclosure appears to be present in Otworth.

Further, neither Maloney nor Otworth, nor any combination thereof, discloses or suggests “based on . . . received answers [to a set of personal questions selected from personal questions stored on computer-readable storage medium], selecting from a plurality of testing materials, at least one customized set of testing material,” as recited in claim 1.

Maloney discloses that “the collection of profiling data about a consumer comprises providing the consumer a test kit” and that “the test kit might comprise one or more tests to determine physiological conditions of the consumer.” Maloney, p. 11, lines 6-9. Although Maloney refers to providing a test kit to a consumer, Maloney does not teach or suggest a “customized” set of testing materials being selected “**based on** . . . received answers [to a set of personal questions selected from personal questions stored on computer-readable storage medium],” as recited in claim 1 (emphasis added).

Maloney does not describe the test kit as being customized, and Maloney lacks any disclosure of a set of testing materials being selected based on any received answer or other received information.

In an apparent acknowledgement of at least some of the deficiencies of Maloney, the Examiner cites Otworth and alleges that “Otworth et al teaches a method and system . . . and includes: based upon collected historical data (subject's data) related to a subject, providing the subject with a customized kit . . .” Final Office Action at pg. 5. However, even assuming the Examiner's characterization of Otworth is correct, which Appellants do not concede, Otworth still fails to cure the deficiencies of Maloney.

Otworth discloses “establishing . . . tests . . . based upon historical data related to the subject.” Otworth, para. [0043]. Otworth further discloses “a review of a history of the subject to determine which test should be administered.” *Id.*, para. [0168]. Otworth provides “blood sugar levels,” (para. [0161]), “high blood pressure,” (para. [0168]), etc., as examples of historical data on the subject. However, Otworth does not teach or suggest that the historical data related to the subject include “answers to [a] set of personal questions,” as recited in claim 1, or that the historical data related to the subject are obtained through “selecting a set of personal questions from . . . personal questions stored on [a] computer-readable storage medium,” “asking a subject the set of personal questions,” and “receiving answers to the set of personal questions,” as recited in claim 1. Instead, Otworth discloses that historical data on the subject are obtained by querying a data service 200. *See id.*, para. [0168] and Fig. 7.

Therefore, even if Otworth were to disclose determining a test kit based on historical data related to the subject, Otworth does not disclose determining a test kit

“based on the received answers,” as recited in claim 1 (emphasis added), because Otworth does not teach or suggest that the historical data related to the subject include received answers. For at least the foregoing reasons, Otworth fails to teach or suggest “based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material,” as recited in claim 1. Accordingly, Otworth fails to cure the deficiencies of Maloney.

Because Maloney and Otworth, individually or in combination, fail to teach or suggest all of the features of claim 1, the Examiner has not properly ascertained the differences between the prior art and claim 1. Accordingly, the Examiner has failed to clearly articulate a reason why the prior art would have rendered claim 1 allegedly obvious to one of ordinary skill in the art. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 1.

For at least these reasons, the Section 103(a) rejection of claim 1 should be reversed.

2. Dependent claims 2-7, 9, and 10

Claims 2-7, 9, and 10 depend from claim 1. Accordingly, the Section 103(a) rejection of these claims should be reversed for all of the reasons explained above in connection with claim 1.

3. Dependent claim 8

Claim 8 depends from claim 1 and, thus, the Section 103(a) rejection of this claim should be reversed for all of the reasons explained above in connection with claim 1. In addition, the rejection of claim 8 under 35 U.S.C. § 103(a) should be reversed because neither Maloney nor Otworth, nor any combination thereof, discloses or suggests

“maintaining an inventory of a plurality of differing groups of customized sets of testing material, each group containing a combination of testing material different from a combination in another group, and . . . selecting and shipping [to a subject] an appropriate set from a group maintained in inventory,” as recited in claim 8.

Contrary to the assertions in the final Office Action at pgs. 8-9, Maloney does not teach selecting “an appropriate (customized) set” or “suggest[] that said selected (customized) set is readily available for each consumer in each of [a number of] profile sub-categories.” Rather, Maloney merely describes examples of a number of different test kits (see, e.g., Maloney at pg. 11, first full paragraph) without ever describing or otherwise teaching “maintaining an inventory of a plurality of differing groups of customized sets of testing material, . . . and . . . selecting . . . an appropriate set from a group maintained in inventory,” as recited in claim 8.

Otworth fails to remedy these deficiencies of Maloney. Although Otworth mentions a testing kit that includes at least one replaceable cartridge (e.g., para [0043]), this is not the same as, and does not disclose or teach, “maintaining an inventory of a plurality of differing groups of customized sets of testing material, . . . and . . . selecting . . . an appropriate set from a group maintained in inventory,” as recited in claim 8.

For at least these reasons, the Section 103(a) rejection of claim 8 should be reversed.

4. Independent claim 11 and dependent claims 12-16, 18, and 19

Maloney and Otworth also do not disclose or suggest a system that includes, among other features, “means for selecting a set of personal questions from . . . personal questions stored on [a] computer-readable storage medium” and “means for, based on . . . received answers [to the set of personal questions], selecting from a plurality of testing materials, at least one customized set of testing material,” as recited in independent claim 11.

The above discussion relating to claim 1 explains how neither Maloney nor Otworth discloses or suggests the “selecting . . .” and “based on . . . , selecting” recitations of claim 1. Claim 11 includes “means for . . .” recitations including all of the language of the respective features of claim 1. Accordingly, the rejection of claim 11 should be reversed for reasons similar to those discussed above in connection with claim 1.

Claims 12-16, 18, and 19 depend from claim 11. Accordingly, the Section 103(a) rejection of these claims should be reversed for all of the reasons explained above in connection with claim 11.

5. Dependent claim 17

Claim 17 depends from claim 11. Consequently, the Section 103(a) rejection of dependent claim 17 should be reversed for all of the reasons explained above in connection with claim 11.

In addition, the Section 103(a) rejection of this claim should be reversed because Maloney and Otworth do not disclose or suggest a system that includes, among other features, “means for maintaining an inventory of a plurality of differing groups of

customized sets of testing material, each group containing a combination of testing material different from a combination in another group, [and] . . . means for selecting an appropriate set from a group maintained in inventory,” as recited in dependent claim 17. See the above explanation of why Maloney and Otworth do not provide any teaching of the features recited in claim 8, which has language similar to that of claim 17.

6. Independent claim 20

Maloney and Otworth also do not disclose or suggest a computer program product that includes, among other features, “program code for, based on . . . received answers [to a set of personal questions], selecting from a plurality of testing materials, at least one customized set of testing material, as recited in independent claim 20.

The above discussion relating to claim 1 explains how neither Maloney nor Otworth discloses or suggests the “based on . . . , selecting” recitation of claim 1. Claim 20 includes a “program code for . . .” recitation including all of the language of the “based on . . . , selecting” feature of claim 1. Accordingly, the rejection of claim 20 should be reversed for reasons similar to those discussed above in connection with the “based on . . . , selecting” recitation of claim 1.

7. Dependent claims 21-23

Claims 21-23 depend from claim 20. Accordingly, the Section 103(a) rejection of these claims should be reversed for all of the reasons explained above in connection with claim 20.

8. Independent claim 24

Maloney and Otworth also do not disclose or suggest a method that includes, among other features, “selecting a set of personal questions from . . . personal

questions stored on [a] computer-readable storage medium" and "based on . . . received answers [to the set of personal questions], selecting from a plurality of testing materials, at least one customized set of testing material," as recited in independent claim 24.

The above discussion relating to claim 1 explains how neither Maloney nor Otworth discloses or suggests the "selecting . . ." and "based on . . . , selecting" recitations of claim 1. Although claim 24 has a scope different from that of claim 1, it includes the same "selecting . . ." and "based on . . . , selecting" recitations included in claim 1. Accordingly, the rejection of claim 24 should be reversed for reasons similar to those discussed above in connection with claim 1.

C. Conclusion


For at least the reasons given above, Appellants request that the Board of Patent Appeals and Interferences reverse the Examiner's rejections of pending claims 1-24 and place this application in condition for allowance.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17, which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: February 10, 2009

By: 
Anthony M. Gutowski
Reg. No. 38,742

VIII. Claims Appendix

1. A beauty diagnostic method, comprising:

storing personal questions on at least one topic including characteristics of at least one external body condition, the personal questions being stored on a computer-readable storage medium;

selecting a set of personal questions from the personal questions stored on the computer-readable storage medium;

asking a subject the set of personal questions;

receiving answers to the set of personal questions;

based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material for determining quantitative information that would aid in recommending at least one beauty product to the subject; and

informing the subject about the at least one customized set of testing material.
2. The method of claim 1, further comprising providing the subject with the customized set of testing material.
3. The method of claim 1, further comprising providing the subject with a customized diagnostic kit containing the customized set of testing material.
4. The method of claim 1, further comprising ascertaining quantitative information by collecting data derived from use of the testing material on the subject.

5. The method of claim 4, further comprising recommending at least one beauty product to the subject based on the received answers and the ascertained quantitative information.

6. The method of claim 1, wherein the customized set of testing material includes at least one of a pH indicator, sebutape, and a corneodisque indicator.

7. The method of claim 2, wherein the questions are posed to the subject over a computer network, and wherein the at least one customized set of testing material is delivered to the subject via a courier.

8. The method of claim 2, further comprising maintaining an inventory of a plurality of differing groups of customized sets of testing material, each group containing a combination of testing material different from a combination in another group, and wherein providing the subject with a customized set includes selecting and shipping an appropriate set from a group maintained in inventory.

9. The method of claim 2, wherein providing the subject with the customized set includes providing the subject with material sufficient to conduct a single test.

10. The method of claim 2, wherein providing the customized set includes providing the subject with material sufficient to conduct multiple tests.

11. A beauty diagnostic system, comprising:

a computer-readable storage medium for storing personal questions on at least one topic including characteristics of at least one external body condition;

means for selecting a set of personal questions from the personal questions stored on the computer-readable storage medium;

means for asking a subject the set of personal questions;

means for receiving answers to the set of personal questions;

means for, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material for determining quantitative information that would aid in recommending at least one beauty product to the subject; and

means for informing the subject about the at least one customized set of testing material.

12. The system of claim 11, further comprising means for providing the subject with the customized set of testing material.

13. The system of claim 11, further comprising means for ascertaining quantitative information by collecting data derived from use of the testing material on the subject.

14. The system of claim 13, further comprising means for, based on the received answers and the ascertained quantitative information, recommending at least one beauty product to the subject.

15. The system of claim 11, wherein the customized set of testing material includes at least one of a pH indicator, sebutape, and a corneodisque indicator.

16. The system of claim 12, wherein the questions are posed to the subject over a computer network, and wherein the at least one customized set of testing material is delivered to the subject via a courier.

17. The system of claim 12, further comprising means for maintaining an inventory of a plurality of differing groups of customized sets of testing material, each group containing a combination of testing material different from a combination in another group, wherein the means for providing the subject with at least one customized set of testing material includes means for selecting an appropriate group of sets maintained in inventory.

18. The system of claim 12, wherein the means for providing the subject with at least one customized set of testing material includes means for providing the subject with material sufficient to conduct a single test.

19. The system of claim 12, wherein the means for providing the subject with at least one customized set of testing material includes means for providing the subject with material sufficient to conduct multiple tests.

20. A computer program product for performing a beauty diagnostic, the computer program product comprising computer-readable media having computer-readable code, the computer program product comprising the following computer-readable program code for effecting actions in a computing platform:

program code for asking a subject personal questions on at least one topic including characteristics of at least one external body condition of the subject;

program code for receiving answers to the personal questions;

program code for, based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material for determining quantitative information that would aid in recommending at least one beauty product to the subject; and

program code for informing the subject about said at least one customized set of testing material.

21. The computer program product of claim 20, further comprising program code for providing the subject with at least one customized set of testing material.

22. The computer program product of claim 20, further comprising program code for ascertaining quantitative information by collecting data derived from use of the testing material on the subject.

23. The computer program product of claim 22, further comprising program code for, based on the received answers and the ascertained quantitative information, recommending at least one beauty product to the subject.

24. A beauty diagnostic method, comprising:

- storing personal questions on at least one topic including characteristics of at least one external body condition, the personal questions being stored on a computer-readable storage medium;
- selecting a set of personal questions from the personal questions stored on the computer-readable storage medium;
- asking a subject the set of personal questions;
- receiving answers to the set of personal questions;
- based on the received answers, selecting from a plurality of testing materials, at least one customized set of testing material for determining quantitative information that would aid in recommending at least one beauty product to the subject;
- providing the subject with the customized set of testing material;
- ascertaining the desired quantitative information by collecting data derived from use of the testing material on the subject; and

based on the received answers and the ascertained quantitative information,
recommending at least one beauty product to the subject.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

There are currently no other appeals or interferences, of which Appellants, Appellants' legal representative, or Assignee are aware, that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.